

# Sanitation in Subdivision Exclusion Checklist

## FOR PARCELS < 20 ACRES EXCLUSIVE OF PUBLIC ROADWAYS:

- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-111(1) as a condominium constructed on land divided in compliance with the Montana Subdivision and Platting Act and the Sanitation in Subdivision Act.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-111(2) as the parcel of land has previously been reviewed under either department requirements or local health requirements and has received approval for a given number of living units for rental or lease and there will be construction of the same or a fewer number of condominium units on the parcel and no new extension of a public water supply system or extension of a public sewage system is required.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is created by order of a court of record in this state or by operation of law or that in absence of agreement between the parties to the sale, could be created by an order of a court in this state pursuant to the law of eminent domain, Title 70, chapter 30.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is created to provide security for construction mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division creates cemetery lots.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is created by the reservation of a life estate.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is created by lease or rental for farming and agricultural purposes.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is in a location over which the state does not have jurisdiction.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (a) as the division is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of Title 76.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (b) as the division is made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewer disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision. (*Note: it may be preferable to use ARM 17.36.605(2)(b) for parcels with a previous approval – see below.*)
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (d) as the division is located within jurisdictional areas that have adopted growth policies pursuant to Title 76, Chapter 1 MCA or is within a first-class or second class municipalities for which the governing body certifies, pursuant to 76-4-127 MCA, that adequate storm water drainage and adequate municipal facilities will be provided. (*Note Municipal Facilities Exclusion Checklist must be reviewed and approved by the Montana Department of Environmental Quality, and the original approval letter from MDEQ must be filed with the survey.*)

- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (e) (i) as a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer because the remainder is served by public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or MCA Title 76, Chapter 4.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (e) (ii) as a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer because the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and if required when installed, was approved pursuant to local regulations or MCA Title 76, Chapter 4.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605 (2) (a) as a parcel that has no existing facilities for water supply, wastewater disposal, storm drainage or solid waste disposal, if no new facilities will be constructed on the parcel.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605 (2) (b) as a parcel that has a previous approval issued under Title 76, chapter 4, part 1, MCA if: (i) no facilities other than those previously approved exist or will be constructed on the parcel; and (ii) the division of land will not cause approved facilities to deviate from the conditions of approval, in violation of 76-4-130, MCA;
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605(2)(c) as a parcel that has facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, if: (i) no new facilities will be constructed on the parcel; (ii) the number of developed parcels is not increased; (iii) existing facilities complied with state and local laws and regulations, including permit requirements, which were applicable at the time of installation; and (iv) the local health officer determines that existing facilities are adequate for the existing use. As a condition of the exemption, the local health officer may require evidence that: (A) existing septic tanks have been pumped within the previous three years; and (B) the parcel includes acreage or features sufficient to accommodate a replacement drainfield.
- ☐ **Tract/Lot/Parcel** is excluded from sanitation review by the Department of Environmental Quality pursuant to ARM 17.36.605(3) as an aggregation of parcels, except that an aggregation is subject to review under 76-4-130, MCA, if any parcel included in the aggregation has a previous approval issued under Title 76, chapter 4, part 1, MCA.

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**The following are not exclusions cited in law or rule but can provide information on a survey as to why a parcel is not undergoing sanitation review; each jurisdiction may choose to include this information on surveys:**

**FOR PARCELS ≥20 ACRES EXCLUSIVE OF PUBLIC ROADWAYS:**

**For parcels ≥ 20 acres, exclusive of public roadways, and exempt from MCA 76-3 Subdivision and Platting Act:**

- ☐ **Tract/Lot/Parcel** is 20 acres or greater, exclusive of public roadways, and is therefore not subject to sanitation review by the Department of Environmental Quality pursuant to M.C.A. 76-4-102 (16).  
(NOTE: For creation of agricultural tracts ≥20 acres, do not include a sanitation exclusion on the survey.).

**For parcels ≥ 20 acres, exclusive of public roadways, and subject to MCA 76-3 Subdivision and Platting Act:**

- ☐ **Tract/Lot/Parcel** is excluded from sanitation review under M.C.A. 76-3-622(2) per: (state one of the exemptions listed above for parcels <20 acres – NOTE: the ability to cite MCA 76-4 exclusions for ≥20 parcels is not specifically allowed by MCA 76-3-622, but is implied.)
- OR**
- ☐ **Tract/Lot/Parcel** is not subject to the submittal requirements under MCA 76-3-622 for sanitation review as the subdivision will not include new water supply or wastewater facilities.

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**NOTES:**

1. Each exclusion must be customized for the survey by use of identifying tract, lot, or parcel number(s).
2. MCA 76-4-122 (2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review under this part for filing until one of the following conditions has been met:
  - (c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption.
3. The term "approved" in the above exclusions means approved under MCA 76-4 Sanitation in Subdivisions Act.